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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,785	10/17/2003	Ui-yol Kim	1793.1045	7724

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EXAMINER

PATEL, GAUTAM

ART UNIT PAPER NUMBER

2627

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

A. Claims 1-21, and 25, 27-29 are drawn to an optical pickup and associated details, classified in Class 369, subclass 44.14.

B. Claims 22-24 and 26 are drawn to a recording and/or reproducing apparatus for which has pickup among other things, classified in Class 369, subclass 44.11.

Inventions B and A are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus does not require details of an optical pickup as such. The subcombination has separate utility such to be used with a magnetic recording apparatus.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In addition, the Applicants are also required elect a single species from whichever of the above group they elect. For group A, B.

These groups contains claims directed to the following patentably distinct species of the claimed invention:

This application contains claims directed to the following patentably distinct species of the claimed invention:

The optical recording device of:
fig. 3 [first embodiment];
fig. 4 [second embodiment];

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. A telephone call was made to Mr. Reginald Lucas on July 3, 2006; to request an oral election to the above restriction requirement, but did not result in an election being made.

NOTE: Mr. Lucas requested that a formal restriction be sent out for examination of the client.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

3. A shortened statutory period for response to this action is set to expire 1 (one) months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Contact information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2600) where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.

GAUTAM R. PATEL
PRIMARY EXAMINER



Gautam R. Patel
Primary Examiner
Group Art Unit 2627

July 3, 2006